

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 461 of 1999

The State of Maharashtra ... Appellant
V/s

1. Shri Udhav Namdeo Shinde
2. Shri Bikaram Namdeo Shinde
3. Shri Duryodhan Namdeo Shinde
4. Shri Shatrughan Namdeo Shinde ..Respondents

Shri B.R.Patil,AGP for Appellant

CORAM:D.G.DESHPANDE, J.

DATED:2nd March 2005

ORAL JUDGMENT :-

1. Heard the learned A.G.P.for the State - Appellant who has filed this appeal challenging the judgment of Reference Court dated 30-3-1994 by which the Reference Court enhanced the compensation from Rs.11,000/- to Rs.20,000/- per Hector.

2. The learned A.G.P. pointed out that SLAO has awarded Rs.11,000/- on the basis of Group II having average assessment. But the Court while enhancing the compensation from Rs.11,000/- to Rs.20,000/- gave

conflicting and contradictory finding. Firstly the court came to the conclusion that the acquired land was under-developed and till now it was surrounded by agricultural lands but the acquired land is situated within 8 Km. of distance from Solapur city and Solapur Akalkot road from the side of Solapur towards Kumbhari. Contrary to above finding the Reference Court also came to the conclusion that there could not have been difficulty for fixing rate at the rate of Rs.20,000/- per hectare for the said land. The learned A.G.P. further pointed out that Reference Court took into consideration a single instance of sale deed wherein Rs.30,000/- were paid for 50 Are land whereas the land acquired of the claimant was in this case was 3 Hectare 82 Ares. He further contended that Notification under Section 4 was issued on 1-5-1986 and the sale instance considered and accepted by the Reference Court was dated 8-8-1986.

3. I have perused the evidence of claimant. He has not at all made any case for enhancement of compensation. Admittedly the land was barren or jirayat land. It is also pertinent to note that so called sale instance is 8-8-1986. It tried to be proved by the claimant by production of Index Extract only and copy of the sale deed was not produced by him nor any witness was examined. This document does not prove similarity between the acquired land and subject matter of the sale deed dated 8-8-1986. In view of

this evidence, the Court was not at all justified in awarding Rs.20,000/- per hectare and in the circumstances the appeal is required to be partly allowed. The adequate and or proper compensation awarded in the circumstances would be Rs.15,000/- per hectare. Therefore, this appeal is partly allowed. The order of reference court dated 30-3-1994 is modified. The Appellant will be liable to pay to the claimant at the rate of Rs.15,000/- per hectare and not at the rate of Rs.20,000/- per hectare. No order as to costs.

(D.G.DESHPANDE, J.)